



Appl. No. : 10/407,284
Confirmation No. : 2270
Applicant : John G. CIESAR, et al.

Filed : April 4, 2003
Title : BATTING SWING TRAINER
AND METHOD

TC/A.U. : 3711
Examiner : Mitra Aryanpour

Docket No. : 205557-9008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. 1.132

Sir:

Jim Schwanke declares as follows:

1. I am familiar with the subject matter of the above patent application and I believe that I am qualified to evaluate this subject matter for the following reasons, among others:
 - a. I was drafted by the professional baseball team known as the California Angels in 1975. I played baseball for the 1976 National Collegiate Athletic Association ("NCAA") National Champion University of Arizona baseball team before injuries ended my baseball career.
 - b. I developed a baseball hitting system (called the "Blast Hitting System") which is being used by over 4,000 coaches nationwide to train baseball players and improve their hitting skills both at the high school and college level.
 - c. I was the assistant baseball coach at Oklahoma State University ("OSU") for six seasons from 1990 through 1995. During this time span, the OSU Cowboys made two College World Series appearances including a national runners-up finish in 1990. The Cowboys won the Big Eight title and played in an NCAA Regional championship game in each of my seasons at Oklahoma State, averaging 49 wins per year. During my six-season OSU tenure, the Cowboy's powerful offense posted a

.313 batting average (including a high of .329 in 1992), a .438 on-base percentage (.449 in 1990), an average of 94 home runs per season (106 in 1991) and an average of 9.11 runs per game.

- d. I became Louisiana State University's ("LSU") hitting instructor in July 1995. Under my hitting tutelage, LSU's Tigers emerged as one of the most prolific offensive teams in NCAA and Southeastern Conference ("SEC") history. I helped direct the Tigers to three straight College World Series appearances including national championships in 1996 and 1997. In 1998, LSU led the nation in home runs for the third consecutive season, as the Tigers belted 157 home runs. LSU's 1997 national championship club established an NCAA record by launching 188 home runs, and the Tigers set a SEC record with 632 RBI. I tutored first-team all-American shortstop Brandon Larson, who established SEC single-season records for home runs (40) and RBI (118). Larson became only the fourth player in the NCAA annals to hit 40 or more homers in a season. LSU's 1996 national championship squad established SEC records for home runs (131), runs scored (648), RBI (585) and total bases (1,331).
2. I have been using the swing training product, which is the subject of the product and method claims of the above patent application (included on the attached Exhibit A), for over two years. I refer to this product below as "the swing trainer."
3. In my opinion, the swing trainer allows a player to practice his swing: (1) in an isolation method as an athlete with no baseball involved, or (2) in a dynamic method with both the short toss and soft toss thrown balls. Each of the drills may be done with a split grip (one hand on the fixed handle and one hand on the slide) or in a competitive grip with both hands on the fixed grip as a player would with the player's regular bat.
4. It is important to note that the swing trainer trains the player to use proper mechanics regardless of the location of the pitched ball.
5. The swing trainer allows players of all ages using the different length and weight variations to practice at home, on the field and even in the on-deck circle during a game.
6. One can also use the swing trainer to hit training balls off a tee at various heights from knee level to chest high. This is important because the swing trainer allows the batter to practice his or her stance, moving from the load position to completion of the swing simulating virtually thousands of different contact points relative to the athlete's stance in a 6' by 3' batter's box.

7. A golf swing, on the other hand, requires that a ball be placed on a tee or at rest on the ground in a nearly constant position in relation to the golfer's stance.
8. The various contact points are magnified in quantum multiples when you use the swing trainer in drills with a thrown ball. The dynamics of baseball batting drills demand that the hitter practice hitting a moving ball in an area that is 17" wide, 24 to 36" high, and 17" deep. Hitting a moving baseball requires a multiple plane swing, multiple timing reactions, and accelerating bat speed control that creates unquantifiable variables.
9. The golf swing is a single plane swing that has no relationship to an oncoming, thrown ball. Golf and batting swings could not be any more dissimilar.
10. The game of baseball is played with a round ball and a round bat. As a result, the most effective training device must either be round or cylindrical. During an ideal swing with perfect timing, a baseball meeting a bat at contact center line to center line leaves the bat from impact without spin. The result is akin to a knuckle ball that floats and darts in the air. A deviation of more than a quarter inch results in topped ground balls and pop ups. The precision required to hit the ball solidly requires that a player swing cylindrical objects to monitor their results. Training with the swing trainer, as a result of its cylindrical bat head and shape, allows a player to monitor his or her swing effectiveness.
11. Practicing a baseball swing with an object with a flat surface like a golf club would mask the accuracy of each swing and distort the results of the training drill.
12. It is also important to note that when the player trains with the swing trainer and uses the regular grip, the audible sound produced by the slide hitting the bat head at the point of contact indicates maximum bat speed. This feedback from the swing trainer allows the player, not only to increase bat speed and power at the point of contact, but also to do so in a manner that indicates the precise relation of bat speed, the point of contact, and the path of the batted ball. In other words, knowing when you have maximum bat speed along the swing path in relationship to actual contact points within the strike zone increases the hitter's awareness of a well-timed swing. The ability to instantaneously see, hear, and feel these elements result in good or bad contact is one reason why the swing trainer is a great training tool.
13. I further declare that all statements made herein of my own knowledge are true, and that all statements made under information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like are punishable

by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Respectfully submitted,

Date:

7/6/04

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06/18/04



Jim Schwanke

EXHIBIT A

What is claimed is:

1. A baseball batting swing trainer comprising:
 - a generally cylindrical shaft having first and second ends and a substantially uniform diameter between the ends;
 - a generally cylindrical first handle attached to the first end and sized to accommodate both of a user's hands;
 - the second end being generally cylindrical with a diameter greater than the shaft diameter and less than the diameter of the head of a conventional baseball bat having a weight equal to the weight of the swing trainer and an overall length equal to the overall length of the swing trainer;
 - a generally cylindrical second handle mounted on the shaft and movable between the first and second shaft ends, the second handle sized to accommodate all fingers on one of the user's hands in a batting grip, the diameter of the second handle being substantially the same as the diameter of the first handle;
 - means positioned on the shaft adjacent to the first handle for stopping movement of the second handle in the direction of the first handle; and
 - first and second buffers affixed to the ends of the second handle to control movement of the second handle on the shaft.
2. The swing trainer of claim 1 in which the second handle is stopped by said means for stopping movement at a position that is sufficiently spaced from the first handle to prevent the person's hands from touching or overlapping.
3. The swing trainer of Claim 1 wherein the second buffer is adjacent the second end and emits an audible sound upon contacting the area of increased circumference.

4. The swing trainer of claim 1, wherein the shaft is hollow and includes weighted members adapted to be inserted and secured into the shaft.
5. The swing trainer of claim 1 wherein the first handle is removable and interchangeable with handles of differing sizes and weights.
6. The swing trainer of claim 1 wherein the second end has a sweet spot and the location of the sweet spot is conspicuously marked on the second end.
7. The swing trainer of claim 6 wherein the location of the sweet spot is marked by a plurality of generally parallel grooves.
8. The swing trainer of claim 1 wherein the shaft, the first handle and the second end are composed essentially of aircraft grade aluminum.
9. The swing trainer of claim 8 wherein the shaft and the head are solid.
10. The swing trainer of claim 1 which is appropriately weighted to have the same total weight and balance as a conventional baseball bat having a an overall length equal to the overall length of the swing trainer.
11. The swing trainer of claim 1 wherein the stopping means includes a ring secured to the shaft.
12. The swing trainer of claim 1 wherein the second end is about seven inches long and the sweet spot is located about five inches from the terminus of the second end.
13. The swing trainer of claim 1 wherein the area of increased circumference on the second end of the shaft is a head permanently affixed to the shaft.
14. The swing trainer of claim 13 wherein the head is adapted to receive interchangeable weighted members.

15. The swing trainer of claim 13 wherein the head is adapted to receive interchangeable weighted members selected from the group consisting of 12, 16, 20, 26 and 32 ounces.
16. The swing trainer of claim 1 wherein the area of increased circumference on the second end of the shaft is a head, which is removably attached to the shaft and can be interchanged with heads of differing weights.
17. The swing trainer of claim 13 wherein the head is secured to the shaft by a pin.
18. The swing trainer of claim 13, wherein the head is secured to the shaft by an epoxy glue.
19. The swing trainer of claim 1, wherein at least one of the first and second buffers has a diameter larger than the diameter of the second handle.
20. The swing trainer of claim 19, wherein the buffers each have a diameter that is larger than the diameter of the slide.
21. The swing trainer of claim 20, wherein the second handle has a ring affixed to each of its ends.
22. The swing trainer of claim 1, wherein the first handle and the second handle have substantially the same external covering.
23. The swing trainer of claim 1, wherein the second handle is composed essentially of a lightweight polymer material.
24. A process for teaching a person the proper technique for swinging a baseball bat using a batting swing trainer including a shaft having first and second ends and a constant diameter between the ends, the first end including a first handle sized to accommodate both of the person's hands, the second end including a head having a diameter greater the shaft and less than the head of a comparable baseball bat, a stop positioned on the shaft adjacent to the first handle,

and a second handle movable between first and second positions and sized to accommodate all fingers on one of the person's hands in a batting grip, the process comprising:

gripping the first handle by one hand and gripping the second handle slide by all fingers on the other hand with both elbows bent;

swinging the trainer while simultaneously moving the second handle from the first position where it is adjacent to the second end to the second position where the slide is adjacent the stop; and

producing an audible sound by striking the second handle against the stop.

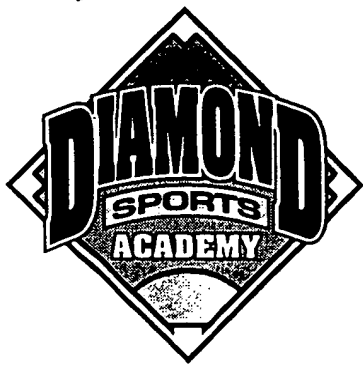
26. The process of claim 25, wherein the second end includes a sweet spot and the audible sound is produced as the swing trainer passes over the person's forward foot with the sweet spot equal to or higher in elevation than the person's knees and equal to or lower in elevation than the person's shoulders.

27. The process of claim 25, wherein the person grips the first handle adjacent to the stop.

28. The process of claim 25, wherein the person swings the second end outwardly and away from the person's body.

29. The process of claim 25, wherein the person also performs the further steps of placing the second handle adjacent the stop, gripping the first handle with both hands similar to holding a conventional baseball bat, and swinging the bat in the same manner as a conventional bat, causing the second handle to move along the shaft until it strikes the second end and produces an audible sound, whereby the person can determine the force of the swing.

30. The process of claim 29, wherein during the swinging the trainer strikes a hard ball and causes it to fly about ten yards or more.

**DIAMOND SPORTS ACADEMY**

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June 3, 2004

Mr. John G. Ciesar
BMI Sales Group, Inc.
7750 Archer Road
Justice IL 60458

Dear John:

I thought it might be helpful to you if I outlined some of the advantages of the Zingbat™ swing trainer as it relates to the products available at this time. Initially, I think it is important to know that currently I am the owner/manager of Diamond Sports Baseball and Softball Academy in Mokena, IL. I have played major league baseball as a member of the Anaheim Angels. Currently, I am the hitting coach for several Fastpitch Softball Olympic players and major league baseball players. I will be traveling to Greece this summer as a hitting instructor.

The Zingbat™ has proven its usefulness to me as I find players maximizing bat speed at the point of contact by practicing a drill with the Zingbat™ that gives you an audible when the slide hits the bat head precisely at the point of contact. This audible click when the slide meets the bat head tells the batter that he is meeting the pitched ball at precisely the right moment.

Further, the cylindrical shape of the bat head allows the player to hit training balls and gauge the reaction of the ball when contact is made. The round cylindrical shape has an effect on the baseball or softball that is similar to that of an actual bat used in game play. Thus, the shape of the bat head is critical to gauge the proper swing of the individual being trained.

Finally, the cylindrical shape of the slide and the cylindrical shape of the grip is similar in diameter and feel to that of a league baseball or softball bat allowing the individual to transfer through muscle memory what has been learned to actual performance at the plate. To my knowledge, there is no product that provides the training benefits that I get with the Zingbat™ so I find it worth its selling price of \$179.75 which, although expensive, is well worth the additional cost.

John, I hope this letter has been helpful to you as I am thrilled with the results we are getting at our training facility with the Zingbat™ product line.

Sincerely,

Mark Doran

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July 5, 2004

Mr. John G. Ciesar
BMI Sales Group, Inc.
7750 Archer Road
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Dear John:

I submit to you the following declaration and testimony regarding my experience and use of the Zingbat as a baseball batting swing-training device.

The Zingbat has allowed me to use the same teaching of hitting theory and principles of hitting a baseball that I have used for thirty years in a more efficient and dynamic way. In the book, The Science Of Hitting (page 55), by Ted Williams the importance of contacting the "joy spots" of the ball with the "joy spot" of the bat are fostered as key elements to the success of hitting a baseball with authority.

The "hitters triangle", which I teach, stresses the importance of contacting the joy spots of the baseball as it relates to its' position to the strike zone, both up and down and in and out. In the Ted Williams book this is referred to as the "happy zone" and illustrated on page 37. Each hitter is able to discover, isolate, and practice the unique "happy zone" he or she has using the Zingbat to get the repetitions needed to imprint their swing slot to create the muscle memory needed to increase their success rate as a hitter. The Zingbat allows me to teach hitters to isolate and concentrate on getting their hand and arms in the proper path to the ball. It also allows hitters to learn how to shorten their swing distance and quicken bat speed that is essential in hitting a baseball moving at various speeds and locations. By using the Zingbat more time can be gained so you can read the pitch later in its path to the plate so the ball is hit more consistently and with greater force. The immediate feedback the Zingbat provides, the "click", to hitters allows for hitters to make adjustments instantly to their swing. The Zingbat has been used to eliminate hitters' faults such as; dipping, casting and wrapping.

The durability and user life of the Zingbat make it well worth the price as compared to other training bats and regulation metal or wooden bats. The design of the Zingbat with its combination of the shaft, cylindrical handle, cylindrical head and cylindrical slide and ability to hit various thrown training balls make it unique among other swing trainers.

Sincerely,



Robert H. Bogdan